

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16944
[REDACTED])	
Petitioner.)	DECISION
)	
_____)	

[Redacted] (petitioner) protests the Notice of Deficiency Determination (NOD) issued by the auditor for the Idaho State Tax Commission (Commission) dated July 10, 2002, asserting additional Idaho income tax and interest for the year 1998 in the total amount of \$850.

On September 7, 2002, a timely protest and petition for redetermination was filed by the petitioner. The petitioner requested an informal hearing that was held on March 18, 2003. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

The auditor made adjustments to the petitioner's Idaho income tax return that disallowed claimed itemized deductions in the amount of \$8,774 for the year 1998. All of the adjustments were to the petitioner's claimed medical and dental expenses. The following is a list of the medical expenses that were disallowed:

- (1) Personal expenses claimed by the petitioner as medical expenses. These personal expenses included: a regular mattress purchased at a local furniture store; Culligan bottled water; health food and vitamins from nutrition stores; books; outside lighting; and a juicer.
- (2) Insurance premiums taken out of the petitioner's wages before taxes.
- (3) A duplicate charge for [Redacted].
- (4) An unsubstantiated claim from [Redacted] incurred but not paid in 1998.

(5) An expense paid to [Redacted] in 1997 with borrowed funds. The loan was repaid in 1998. This expense should have been deducted in 1997 and was subject to the 7.5% limitation in that year.

The auditor wrote the petitioner on September 10, 2002, and acknowledged the petitioner's protest of the NOD. The auditor informed the petitioner that her file would be retained in the audit section until September 30, 2002, to allow her more time to submit additional documentation. The auditor requested the following documentation.

---Doctors prescriptions/orders for any of the general health purchases.

---Documentation differentiating payments to [Redacted].

On September 30, 2003, the petitioner sent a letter to the auditor and enclosed letters from several doctors. The petitioner stated in her letter that she had reviewed her documentation regarding the payments to [Redacted] (item 3 on page 1 of this decision) and that she accepted the auditor's finding regarding those payments. She stated that she also accepted the auditor's finding regarding the payment to [Redacted] (item 4 on page 1 of this decision).

The letters from [Redacted] and [Redacted] list the general health items they had recommended that the petitioner purchase.

The auditor sent the petitioner a letter dated October 3, 2002, acknowledging receipt of her September 30, 2002 letter and the letters from [Redacted]. The auditor stated that the letters were only doctors' recommendations and no prescription or order was written. The petitioner was advised that her file was being sent to the Commission's legal/tax policy division for continuation of the appeals process.

On November 6, 2002, the Tax Policy Specialist (specialist) sent the petitioner a letter to inform her of her alternatives for redetermining a protested NOD. The petitioner responded by e-mail and requested a hearing.

A telephone conference was scheduled for February 11, 2003, but the hearing was later rescheduled for March 18, 2003.

The specialist received a letter from [Redacted], [Redacted].., dated March 10, 2003 wherein [Redacted] wanted to make sure the Commission knew her recommendations to the petitioner were “doctor’s orders.”

[Redacted] telephoned the specialist on March 17, 2003, to inform him that she did not and could not prescribe the mattress for the petitioner.

On May 14, 2003, a letter from the petitioner was faxed to the Commission authorizing Dr.[Redacted] to participate in the petitioner’s telephone conference.

During the telephone conference, the petitioner appeared to be under the impression that if an expense was prescribed by a medical professional it would be automatically accepted as a medical expense on her income tax return. The petitioner was told that her expenses would be reviewed to see if they qualified as medical expenses for tax purposes.

There are three issues remaining on which the petitioner and the Commission do not agree.

The first issue deals with the petitioner’s personal expenses that were claimed as medical expenses and disallowed by the auditor. Deductible medical expenses are amounts paid for the diagnosis, mitigation, treatment, prevention of disease or for the purpose of affecting any structure or function of the body. Internal Revenue Code (IRC) section 213(d) (1). The only payments for drugs that count as medical expenses are those for prescribed drugs and insulin. IRC sections

213(b) and 213(d)(3). The term “prescribed drug” means a drug or biological which requires the prescription of a physician for use by an individual. IRC section 213(d)(3). The term “physician” includes a doctor of medicine or osteopathy, . . . and a chiropractor but only with respect to treatment by means of manual manipulation of the spine. IRC section 213(d)(4).

The medical expense deduction is an exception to the general principle that “personal, living, or family” expenses are not deductible. Accordingly, the rules allowing the medical expense deduction are to be construed narrowly.

To get a medical deduction, a taxpayer must show both that the expenditure was an essential element of medical care and that, were it not for medical reasons, the expenditure would not have been incurred. Consideration is given to the motive of the taxpayer, but that factor is not alone determinative. Expenses merely beneficial to the individual’s general health aren’t deductible as costs for medical care. Internal Revenue Regulation 1.213-1(e)(1)(ii). Also, an expense does not qualify for a medical deduction merely because it is prescribed or recommended by a physician. *Atkinson, H.*, (1965) 44 TC 39.

It is the Commission’s position that the petitioner’s claimed medical expenses that were disallowed are merely personal living expenses that do not qualify as medical expenses.

The petitioner purchased a standard mattress and box springs from a local furniture store. In *Rev. Rul. 55-261*, 1955-1 CB 307, a taxpayer’s spouse had arthritis of the spine for which a special mattress and a certain thickness of plywood boards was prescribed. Under such circumstances the expense of a special mattress and plywood boards prescribed for the relief of a physical disease or illness constitutes a medical deduction under section 213(x) of the Code. In the petitioner’s case, she purchased a “standard” mattress on the recommendation of her chiropractor. This purchase would not qualify as a medical expense.

The outdoor lighting system for the petitioner's home is a general capital expenditure that does not qualify as a medical expense. Even if this improvement to petitioner's home did qualify as a medical expense, only the amount equal to the cost of the improvement less the increase in the value of the petitioner's home would be deductible as a medical expense. An appraisal of the petitioner's home would probably have to be done to establish this amount.

The amounts the petitioner paid for caller ID are a common personal expense and do not qualify as a medical expense.

The health foods the petitioner purchased from nutrition stores were for normal nutritional needs and do not qualify as a deductible medical expense. Generally, the cost of special food or beverages does not qualify as a medical expense. If prescribed food or beverage is taken solely for alleviation or treatment of an illness and is in no way part of the nutritional needs of a patient and a statement to that effect is submitted by a doctor, the IRS considers it a medical expense. Where a special food or beverage is taken as a substitute for food and beverage normally consumed, the expense is personal and nondeductible [Rev. Rul. 55-261, 1955-1 CB 307](#), distinguished by [Rev. Rul. 76-80, 1976-1 CB 71](#). RIA United States Tax Reporter ¶[2135.12\(10\)](#). However, the Tax Court has allowed deductions for the *excess costs of special foods* that served normal nutritional needs. *Cohn, Randolph, Von Kolb*, all annotated. RIA United States Tax Reporter, ¶[2135.07](#). It appears that there must be a direct correlation between the food eaten or not eaten and the mitigation of the disease or illness. In the petitioner's case there does not appear to be any direct correlation between eating health foods and the mitigation of disease or illness.

The vitamins the petitioner purchased are not deductible as a medical expense because they are not a controlled drug prescribed by a physician.

The petitioner has not shown that the use of a juicer mitigates the petitioner's disease or illness, and thus the purchase of these items is not deductible as a medical expense. See Alfred W. Ford (1979) TC Memo 1979-109, PH TC.

Amounts expended to purchase bottled distilled water for drinking purposes, merely to avoid drinking fluorinated water, do not represent amounts paid for medical care within the meaning of IRC section 213 of the Internal Revenue Code of 1954 and are not deductible for federal income tax purposes. Rev. Rul. 56-19, 1956-1 CB 135 -- IRC Sec. 213.

The purchase of books from Barnes and Noble was not a medical expense because petitioner has not shown that the books were directly related to her disease or illness. See F.B. Garrison, 67 TCM 2896, Dec. 49,829(M), TC Memo. 1994-200.

The second issue pertains to the petitioner's payment in 1997 to [Redacted] using borrowed funds. The loan was repaid in 1998. This expense should have been deducted in 1997 when it was paid and was subject to the 7.5% limitation in that year. An individual may generally deduct medical expenses only in the year he paid them regardless of when the illness or injury occurred or regardless of whether he is on the cash or accrual basis. If he or she charges expenses on a credit card, for example, the expenses are deducted in the year the charge is made; it doesn't matter when the amount charged is actually paid. RIA United States Tax Reporter EXP ¶2134.03.

The last issue deals with insurance premiums taken out of the petitioner's wages before taxes. In this case, the petitioner's income reported on her W-2 for 1998 was already reduced by the amount of the insurance premiums.

The petitioner has failed to provide authority or documentation to support her position regarding any of the adjustments made by the auditor. The Commission finds that no adjustment is needed to the audit.

WHEREFORE, the Notice of Deficiency Determination dated July 10, 2002, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax and interest (calculated to October 2, 2003):

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$675	\$196	\$871

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2003, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]
